

In the Matter of ROLLWAY BEARING COMPANY, INC. and FEDERAL
LABOR UNION 18482

Case No. C-32.—Decided April 28, 1936

Machine Parts Industry—Unit Appropriate for Collective Bargaining: production employees; eligibility for membership in only organization making bona fide effort at collective bargaining—*Representatives:* proof of choice; membership in union; participation in strike called by union—*Collective Bargaining:* refusal to recognize representatives as bargaining agency representing employees; refusal to meet representatives—*Strike—Discrimination:* discharge; non-reinstatement following strike—*Reinstatement Ordered, Strikers:* strike provoked by employer's law violation; displacement of employees hired during strike; preferential list ordered, including—*Reinstatement Ordered, Non-Strikers—Back Pay:* awarded, non-strikers.

Mr. Daniel B. Shortal for the Board.

Hancock, Dorr, Kingsley, & Shove, by *Mr. Carl E. Dorr* and *Mr. Stewart F. Hancock*, of Syracuse, N. Y., for respondent.

Mr. Melvin C. Smith, of counsel to the Board.

DECISION

STATEMENT OF CASE

Upon charges duly filed by Federal Labor Union 18482, hereinafter referred to as the Union, the National Labor Relations Board, by John P. Boland, Regional Director for the Third Region, issued its complaint, dated October 30, 1935, against Rollway Bearing Company, Inc., Syracuse, New York, respondent herein. The complaint, and notice of hearing thereon, were duly served upon respondent and upon the Union on October 31, 1935.

The complaint alleges that respondent has engaged in unfair labor practices affecting commerce, within the meaning of Section 8, subdivisions (1), (3) and (5), and Section 2, subdivisions (6) and (7) of the National Labor Relations Act, approved July 5, 1935, hereinafter called the Act. Respondent filed a motion to dismiss the complaint on the ground of the unconstitutionality of the Act as applied to the respondent. Without prejudice to its rights under the motion to dismiss, respondent also filed an answer to the complaint admitting the allegations concerning its incorporation and place of business, but denying the allegations with respect to its activities in interstate

commerce and further denying the allegations regarding the unfair labor practices.

Pursuant to the notice thereof, Thurman W. Stoner, Trial Examiner duly designated by order of the Board, conducted a hearing on November 12, 13, 14, 15, 19 and 20, 1935, at Syracuse, New York. Respondent, appearing by counsel, participated in the hearing. Full opportunity to be heard, to cross-examine witnesses and to produce evidence was afforded to all parties. At the close of the Board's case and also at the conclusion of the hearing, respondent renewed its motion to dismiss the complaint on the ground that the Act is unconstitutional and on the further ground that the evidence did not support the allegations in the complaint. The Trial Examiner denied the motions to dismiss. The rulings of the Trial Examiner are hereby affirmed.

Briefs were filed by counsel for respondent and counsel for the Board.

Upon the record thus made, the transcript of the hearing and all evidence, including oral testimony, documentary and other evidence offered and received at the hearing, the Trial Examiner, on December 28, 1935, filed an intermediate report, finding and concluding in substance that respondent had engaged in unfair labor practices affecting commerce, within the meaning of Section 8, subdivisions (1), (3) and (5), and Section 2, subdivisions (6) and (7) of the Act. The Trial Examiner recommended that the complaint be dismissed as to Frank Cherry, Howard Hooper and Robert Parslow, that respondent offer immediate and full reinstatement with back pay to John Fowler, Carl Kramer and George Kugler, and that respondent offer to reinstate to his former position at the same rate of pay any employee, member of Federal Labor Union 18482, who participated in a strike beginning August 29, 1935, and who had not been offered reemployment by respondent.

Respondent thereafter filed a statement of exceptions, dated January 9, 1936, wherein respondent made exceptions to the Trial Examiner's rulings upon its motions and objections, as well as to the Trial Examiner's intermediate report.

By order of the Board, dated January 9, 1936, the proceeding was transferred to and continued before it, in accordance with Article II, Section 35 of National Labor Relations Board Rules and Regulations—Series 1.

An oral argument on the record was held before the Board in Washington, D. C., on January 22, 1936, pursuant to Article II, Section 34 of said Rules and Regulations—Series 1.

We find no error in the Trial Examiner's rulings upon respondent's motions and objections, and such rulings are hereby affirmed. As set

forth below, we also find that the evidence supports the findings and conclusions made by the Trial Examiner in his intermediate report that respondent has engaged in unfair labor practices affecting commerce, within the meaning of Section 8, subdivisions (1), (3) and (5), and Section 2, subdivisions (6) and (7) of the Act.

Upon the evidence adduced at the hearing and from the entire record now before it, the Board makes the following:

FINDINGS OF FACT

I. RESPONDENT AND ITS BUSINESS

1. Respondent, Rollway Bearing Company, Inc., is and has been since February 13, 1923, a corporation organized under and existing by virtue of the laws of the State of New York, having its principal office and place of business in the City of Syracuse, County of Onondaga, State of New York, and is now and has continuously been engaged at the aforesaid place of business, hereinafter referred to as respondent's plant, in the production, sale and distribution of roller bearings.

2. All of respondent's manufacturing operations are performed at its plant in Syracuse, and it maintains no branch offices. However, sales representatives are stationed in Chicago, Illinois; Detroit, Michigan; Philadelphia and Pittsburgh; Pennsylvania; and Cleveland, Ohio. It appears that the sales representatives have no authority to enter into contracts binding respondent, and orders for finished products are not binding on respondent until approved by the sales department in Syracuse, New York. The service of respondent's engineering department is recommended to its customers for assistance in the mounting and installing of roller bearings, and the chief inspector for respondent makes occasional trips of inspection throughout the United States in answer to complaints concerning its products.

3. The raw materials used in the manufacturing of respondent's finished products consist principally of stampings, steel bars, bronze castings, steel forgings, steel tubes and wires. A substantial proportion, approximately 25 percent, of the raw materials is obtained from without the State of New York, mainly from the States of Pennsylvania, Ohio and Michigan. The remaining portion of raw materials is obtained from within the State of New York.

Extensive shipments of respondent's finished products are made throughout the United States. Approximately 90 percent of the finished products are destined to points without the State of New York. Shipments are usually made f. o. b. Syracuse. Occasional shipments are made to Canada, and it appears that one shipment to

Italy and one shipment to Sweden have been made within the past two years. A substantial amount of respondent's finished products are purchased by the United States Navy Department, Pennsylvania Railroad Company (through General Electric Company or Westinghouse Company), automobile manufacturers in Michigan and Indiana, steel mill equipment builders in Pittsburgh, Pennsylvania, a manufacturer of machine tools in Illinois, and general construction companies in Pennsylvania and Massachusetts.

4. The aforesaid operations of respondent constitute a continuous flow of trade, traffic and commerce among the several States and with foreign countries.

II. FEDERAL LABOR UNION 18482 AND EARLY DEALINGS WITH RESPONDENT

5. Federal Labor Union 18482 is a labor organization affiliated with the American Federation of Labor. It was organized August 16, 1933, for the purpose of collective bargaining with respondent in matters concerning respondent's production employees. At that time about 140 employees of approximately 200 production employees in respondent's plant, eligible for membership in the Union, became members thereof.

The first meeting between the Union's duly elected Shop Committee and respondent took place late in August, 1933, shortly after the organization of the Union. At that time Bell, President of respondent, agreed "to go along" with the Union. The second meeting was held in September, 1933, and layoffs and working conditions were discussed. Thereafter meetings were held about once each month.

In July, 1934, the Shop Committee asked respondent for increased wages but was informed that respondent was not able to meet its demands. Shortly thereafter Bell, President of respondent, at his own request, was permitted to address a union meeting. He asked the employees to "go along with him", and announced that he would raise wages when he was in a position to do so. Bell also stated on this occasion that he considered it a waste of money to pay dues to the American Federation of Labor, and that the men could be better represented through a lawyer.

The present Shop Committee, representing the Union, was elected in January, 1935.

III. THE BARGAINING UNIT AND MAJORITY REPRESENTATION BY THE UNION

6. The complaint alleges that the production department at respondent's plant constitutes a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act.

Only production employees are eligible for membership in the Union. Respondent has raised no issue relative to the appropriate unit as such for the purposes of collective bargaining. However, in its answer, respondent argues that its production employees do not constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act, for the reason that respondent is not engaged in interstate commerce and its business or operations do not come within the purview of the Act. We are unable to see that this argument is relevant to the question of the appropriate bargaining unit. We find that the production employees at respondent's plant constitute a unit appropriate for the purposes of collective bargaining.

7. It was testified that in August, 1933, at the time of the organization of the Union, approximately 140 of the 200 employees at respondent's plant became members of the Union. In December, 1933, the Shop Committee informed respondent that it represented a majority of its employees for the purposes of collective bargaining, and this statement was not questioned by respondent at that time or at any time thereafter.

Superintendent Polloe testified that on August 29, 1935, at the time the strike hereafter discussed was called at respondent's plant, approximately 40 production employees of 180 employed at the plant reported for work. Approximately 140 employees went out on strike. Thus, the record clearly indicates that a majority of the employees have adhered constantly and consistently to the Union.

Between July 18, 1935, and August 22, 1935, numerous attempts to bargain collectively with respondent were made by the Union. We find that at all such times the Union was the duly designated representative of a majority of the employees in the appropriate unit.

IV. THE UNFAIR LABOR PRACTICES

A. Events leading up to present controversy

8. Clarence O. Walter and Samuel Polloe, Vice-President and Superintendent of respondent, respectively, testified that an inventory of respondent's business on July 1, 1935, disclosed that during the first six months of 1935 respondent had suffered approximately a 20 per cent decrease in its volume of business as compared with the previous six months, and that it was decided to put the plant on a more economical operating basis by making a reduction in the force of approximately 50 to 60 employees. On July 1, 1935, respondent began to reduce the number of its employees, and continue to discharge employees during the months of July and August, 1935. Approximately 200 workers were employed at respondent's plant on July 1, 1935, and an average of 180 workers were employed at its plant dur-

ing August, 1935. Thus respondent discharged only about 20 employees between July 1, 1935, and August 29, 1935, the date of the strike hereafter discussed.

B. *The six discharges named in the complaint*

9. The complaint alleges that the following six employees of respondent were discharged and refused reinstatement by respondent because of their union membership and activity:

John Fowler—discharged July 12, 1935¹

Frank Cherry—discharged July 15, 1935

Carl Kramer—discharged August 1, 1935

George Kugler—discharged August 19, 1935²

Howard Hooper—discharged August 19, 1935²

Robert Parslow—discharged August 19, 1935²

Respondent denies this allegation.

10. *Cherry, Hooper, and Parslow* may be considered together. Cherry and Hooper did not appear and testify at the hearing. No evidence was offered in behalf of Cherry; and Henderson, Financial Secretary of the Union, indicated that Hooper does not wish to be reinstated to his former position with respondent. Parslow testified that he now has satisfactory employment and does not desire to return to work for respondent. The complaint with respect to Cherry, Hooper, and Parslow will be dismissed, without prejudice.

Fowler was employed as a timekeeper and tool crib clerk, and applied first aid to minor injuries. He had been employed by respondent about six and one half years and has been a member of the Union since its inception. He was discharged July 8, 1935.

Kramer was employed as a stamping machine operator. He had been employed by respondent since 1929; and has been a member of the Union since its inception, and has served on the Shop Committee. He was informed on August 1, 1935, by Foreman Karb that he would be "laid off for a day or two until business picked up." However, he has never been recalled.

Kugler was employed as a lathe operator. He had been in the employ of respondent for eight or nine years. He is Treasurer of the Union and has been a member of the Shop Committee on several occasions. He was discharged July 19, 1935. Although Kugler has never been recalled to work, shortly after his discharge Cliff Kaiser was placed in his job. Respondent contends that he was laid off and that his employment was terminated temporarily because of a reduction in the force.

¹ Amended to July 8, 1935

² Amended to July 19, 1935.

In addition to the above employees, David McDonald, President of the Union from January to April, 1935, was discharged July 1, 1935; and Herbert Henderson, Financial Secretary of the Union, was discharged July 2, 1935.³ The three members of the Shop Committee and other members of the Union were also discharged between July 1 and July 5, 1935. Substantially all of the 20 employees discharged by respondent between July 1, 1935, and August 29, 1935, were officers and members of the Union.

It is true that McDonald, Henderson, the three members of the Shop Committee and other members of the Union were discharged before July 5, 1935, the effective date of the Act; thus, no charges were made against respondent with respect to them. However, the fact that substantially all of the 20 employees discharged by respondent were members of the Union, and that among them were practically all the officers and committee-men of the Union, indicates clearly that even if it is true that respondent had found it necessary to reduce its force, it was taking advantage of the opportunity to get rid of those of its employees who were active in Union affairs.

In the case of Kugler, respondent frankly states that its sole reason for terminating his employment was because of the necessity to reduce the force. It is clear that Kugler had been a competent and conscientious worker. Although respondent, at the time of the hearing, had increased its personnel to approximately the same number as were employed on July 1, 1935, Kugler had not been recalled. We conclude that he was discharged because of his Union membership and activity.

One of the reasons respondent gives for the discharge of Fowler is that his job was abolished. However, the evidence shows that two weeks after he was discharged his job was given to another employee, Donald Milburn. Further, this was not the reason given to him at the time he was discharged. Superintendent Polloe merely told him that he was being laid off because it was necessary to reduce the force.

In the case of both Fowler and Kramer, respondent also contends that they were inefficient or had failed to obey instructions at various intervals since 1933. However, the evidence shows that the last of these incidents took place months before either was laid off. For example, respondent offered evidence to show that during 1933, 1934, and the early part of 1935, Fowler had been instructed on several occasions concerning the manner in which tools should be catalogued, and had been told not to allow more than one man to enter the tool crib at a time; and that he had failed to obey these instructions, and consequently the tool crib had remained disorderly. However, re-

³ George Kugler, Treasurer of the Union, testified that in July 1935 Foreman Biddle informed him that he wished to put Henderson back on the machine, but the officials of respondent would not let him.

spendent offered no evidence that this was the case during the period just prior to his discharge. In the case of Kramer, Superintendent Polloe testified that in February, 1935, a foreman told him that he saw Kramer passing a machine with a hammer in his hand and strike a tool when it was not necessary. Polloe also testified that on more than one occasion Kramer had left his machine to talk with other men. As in the case of Fowler, these incidents, even if taken at face value, were not shown to have occurred at or about the time of Kramer's layoff.

Thus, the evidence clearly fails to sustain respondent's contentions that Fowler and Kramer were discharged for inefficiency or failure to obey instructions. The record convinces us that the discharge of these men, when viewed in conjunction with the discharge of the other Union members and officials, was due to their Union membership.

We find that respondent has discriminated in regard to the hire and tenure of employment of Fowler, Kramer and Kugler for the purpose of discouraging membership in the Union, and that by such acts, respondent has interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act.

C. The alleged violation of section 8, subdivision (5)

11. The complaint alleges that respondent has engaged in unfair labor practices, within the meaning of Section 8, subdivision (5) of the Act.

On July 3, 1935, Henderson, Financial Secretary of the Union, and the two other members of the Shop Committee, all of whom had been discharged several days previous thereto, went to respondent's office and talked with Bell, President of respondent, concerning the discharges. Bell stated that there was nothing in particular wrong with the employees' work, but that it was necessary to reduce the force and seniority was not being taken into consideration. Bell further stated that he would not meet with a representative of the employees concerning grievances, but would deal with each employee individually.

Following the meeting on July 3, 1935, Henderson received word that Bell wished to see him. On July 8, Henderson attempted to reach Bell, but was informed that he was ill. He made further attempts to see Bell on July 10 and 11, without success.

12. On July 18, 1935, Henderson and Walsh, representative of the American Federation of Labor, went to respondent's office and talked with Walter, Vice-President of respondent. Walter stated that Bell was ill, but that he would attempt to communicate with him. He further stated that he had no power or authority to take up any matters concerning the employees. However, the evidence indicates

that in the absence of Bell, Walter was clothed with authority to act in such matters. On July 19, 1935, and again on July 24, 1935, and on every following working day during the month of July, 1935, Walsh and Henderson called at respondent's office and attempted to reach Bell with a view to discussing the various discharges. They were unsuccessful in their efforts to reach Bell, and Walter refused to enter into any negotiations with them. On August 2, 1935, Walsh and Henderson again called at respondent's office. They were told that Bell was in his office, but was not feeling well and did not wish to discuss business. Henderson was permitted to go in and greet Bell, but Walsh was requested to wait in an outer office. Henderson was not permitted to discuss the discharges.

13. On August 8, 1935, Darrington, a Conciliator of the New York Bureau of Mediation, called at respondent's office and was informed that Bell was ill. Walter discussed briefly with him the cases of certain of the employees who had been discharged. Darrington requested Walter to meet with the Shop Committee, but Walter refused and stated that there was nothing to talk over.

Henderson and Walsh made a final effort to meet with Bell on August 22, 1935. They called at respondent's office and Walter informed them that he lacked authority to speak for respondent and that he had been unable to arrange a meeting with Bell.

On August 27, 1935, the union held a meeting and because of the unsatisfactory state of negotiations with respondent, voted to strike. The strike became effective August 29, 1935. On September 4, 1935, Darrington called at respondent's office with a view to settling the strike and asked for Bell. A clerk informed him that Bell did not care to see him. Again on September 9, 1935, Darrington called at respondent's office, accompanied by Haines, a member of the Union. Bell was in his office and Haines walked in, but as Darrington was about to follow, Bell ordered him to stay out. The following day, September 10, 1935, Darrington called at respondent's office and made a last attempt to talk with Bell. Bell was in his office, but a clerk informed Darrington that he could not see him. However, Walter talked briefly with Darrington and stated that the men had left their jobs without notice, and if they wanted to get back to work they would have to fill out applications like anyone else.

14. On October 7, 1935, just previous to the filing of formal charges in this case, John P. Boland, Regional Director for the Third Region, National Labor Relations Board, called at respondent's office and asked to see Bell. He was informed that Bell was not there and that his duties were being assumed by Walter. Boland talked with Walter, and upon asking if he would meet with the employees as union men, Walter stated that the office was open to anyone and he would meet with the employees as they came in individually.

15. Respondent's conduct as set forth in findings 11, 12, 13 and 14 above appears to be a wilful, deliberate and conscious attempt to evade its obligations under the Act, and constitutes a refusal to bargain collectively with the representative of its employees in respect to rates of pay, wages, hours of employment, and other conditions of employment.

V. EFFECT OF UNFAIR LABOR PRACTICES ON COMMERCE

16. The strike which took place in respondent's plant on August 29, 1935, was caused by respondent's refusal to meet and bargain collectively with its employees through a labor organization of which they were members. Approximately 180 employees were employed at respondent's plant on August 28, 1935, and approximately 40 employees reported for work on August 29, 1935. The strike was called off October 24, 1935. Respondent's plant was picketed continuously during the period of the strike.

The strike substantially reduced and diminished respondent's normal volume of business and decreased the volume of its normal purchases of raw materials and normal sale and transportation of finished products in interstate commerce. As a direct result of the strike it became necessary for respondent to cancel a substantial order placed with it by Ford Motor Company, amounting to approximately \$2,400, and to likewise cancel orders placed with it by the Ladle Conveyor Manufacturing Company, New Philadelphia, Pennsylvania, and the Precision Bearing Company, Los Angeles, California. It was also necessary to defer shipment of other orders.

17. On the basis of experience in respondent's plant and in other plants, respondent's conduct as set forth in findings 11 to 15 above, and each item of such conduct, has led and tends to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

FORM OF RELIEF

Approximately 60 to 70 new employees have been hired by respondent since the beginning of the strike, and approximately 77 union employees who participated in the strike have not been reinstated to their former positions by respondent. A question now arises concerning the form of relief to be granted in this matter. "It would be futile simply to order the respondent to bargain with the union since the plant now has (approximately) its full quota of men and the process of bargaining could yield little comfort to those who are not employed . . . Under these circumstances we must restore, as far as possible, the situation existing prior to the violation of the Act, in order that the process of collective bargaining, which was interrupted,

may be continued." *In the Matter of Columbian Enameling and Stamping Company, Case No. C-14.*

Thus in order to restore, as far as possible, the situation to status quo, we shall order respondent to offer employment to its striking employees insofar as the positions held by them on August 28, 1935, are now filled by persons employed by it since August 28, 1935, and who were not in its employ on August 28, 1935.

CONCLUSIONS OF LAW

Upon the basis of the foregoing findings of fact, and upon the entire record in the proceeding, the Board finds and concludes as a matter of law that:

1. Federal Labor Union 18482 is a labor organization, within the meaning of Section 2, subdivision (5) of the National Labor Relations Act.

2. The production employees at respondent's plant constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the National Labor Relations Act.

3. By virtue of Section 9 (a) of the National Labor Relations Act, Federal Labor Union 18482, having been designated by a majority of the employees in an appropriate unit, is the exclusive representative of all the employees in such unit for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment.

4. Respondent, by refusing to bargain collectively with the representative of its employees in respect to rates of pay, wages, hours of employment, and other conditions of employment, has engaged in and is engaging in unfair labor practices, within the meaning of Section 8, subdivision (5) of the National Labor Relations Act.

5. Respondent, by its discharge of John Fowler, Carl Kramer and George Kugler, and each of them, did discriminate and is discriminating in regard to the hire and tenure of employment of said persons, and each of them, and did thus discourage and is thus discouraging membership in Federal Labor Union 18482, and by all of said acts and each of them did thereby engage in and is thereby engaging in unfair labor practices, within the meaning of Section 8, subdivision (3) of the National Labor Relations Act.

6. Respondent, by interfering with, restraining and coercing its employees in the exercise of their right to self-organization, to form, join, or assist labor organization, to bargain collectively through representatives of their own choosing, and to engage in concerted activities, for the purpose of collective bargaining and other mutual aid and protection as guaranteed in Section 7 of the National Labor Relations Act, has engaged in and is engaging in unfair labor practices, within the meaning of Section 8, subdivision (1) of the said Act.

7. The unfair labor practices in which respondent has engaged and is engaging constitute unfair labor practices affecting commerce, within the meaning of Section 2, subdivisions (6) and (7) of the National Labor Relations Act.

8. Respondent in laying off or discharging Frank Cherry, Howard Hooper and Robert Parslow has not engaged in unfair labor practices, within the meaning of Section 8, subdivisions (1) or (3) of the National Labor Relations Act.

ORDER

On the basis of the findings of fact and the conclusions of law, and pursuant to Section 10, subdivision (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders:

1. That respondent, Rollway Bearing Company, Inc. and its officers and agents, shall:

(a) Cease and desist from any refusal to bargain collectively with Federal Labor Union 18482 as the exclusive representative designated therefor by the production employees at its plant, in respect to rates of pay, wages, hours of employment, and other conditions of employment.

(b) Cease and desist from discouraging membership in Federal Labor Union 18482, by discrimination in regard to hire or tenure of employment or any term or condition of employment.

(c) Cease and desist from in any other manner interfering with, restraining or coercing its employees in the exercise of their right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection.

(d) Take the following affirmative action, which the Board finds will effectuate the policies of the National Labor Relations Act:

(1) Upon request, bargain collectively with Federal Labor Union 18482 as the exclusive representative designated therefor by the production employees at its plant, in respect to rates of pay, wages, hours of employment, and other conditions of employment.

(2) Offer employment to all employees who were employed by respondent on August 28, 1935, and have not since received substantially equivalent employment elsewhere, where the positions held by such employees on August 28, 1935, are now filled by persons who were not employees on August 28, 1935, and were employed by respondent subsequent thereto, and place all other employees who were employed by respondent on August 28, 1935, who struck on August 29, 1935, and have not since received substantially equivalent employment else-

where, on a preferential list to be offered employment, on the basis of seniority in their respective classifications, as and when their labor is needed.

(3) Offer to John Fowler, Carl Kramer and George Kugler immediate and full reinstatement, respectively, to their former positions, without prejudice to any rights and privileges previously enjoyed.

(4) Make whole John Fowler, Carl Kramer and George Kugler, for any loss of pay they have suffered by reason of their discharge by payment to each of them, respectively, of a sum of money equal to that which each would normally have earned as wages during the period from the date of his discharge to the date of such offer of reinstatement, computed at the wage rate each was paid at the time of his discharge, less the amount earned subsequent to his discharge.

(5) Post immediately notices to its employees in conspicuous places at its plant, stating (a) that respondent will cease and desist in the manner aforesaid, and (b) that such notices will remain posted for a period of at least thirty (30) consecutive days from the date of posting.

2. That the complaint is hereby dismissed, without prejudice, as to the allegations of discriminatory discharge of Frank Cherry, Howard Hooper and Robert Parslow.